

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHIBUEZE C. ANAEME,

Plaintiff,

v.

No. 1:11-CV-1230
(MAD/DRH)

UNITED STATES OF AMERICA, et al.,

Defendants.

APPEARANCES:

CHIBUEZE C. ANAEME
Plaintiff Pro Se
c/o General Delivery
United States Post Office - Midway Branch
San Diego, California 92138

**DAVID R. HOMER
U.S. MAGISTRATE JUDGE**

REPORT-RECOMMENDATION and ORDER

Plaintiff pro se Chibueze C. Anaeme ("Anaeme") commenced this action on October 7, 2011 under 42 U.S.C. § 1981 alleging violations of his civil rights. Dkt. No. 1. On the same date, Anaeme filed a motion for leave to proceed in forma pauperis and a motion for the appoint of counsel. Dkt. Nos. 2-3. In an order filed October 26, 2011, Anaeme's motion for leave to proceed in forma pauperis was denied and he was directed to pay the entire filing fee of \$350 on or before November 25, 2011 before his case could proceed. Dkt. No. 6. Anaeme has failed to pay the \$350 filing fee. It is now approximately three weeks past the deadline for payment of the filing fee and Anaeme has not done so. Accordingly, since this action cannot proceed in the absence of Anaeme's payment of the filing fee, it is hereby

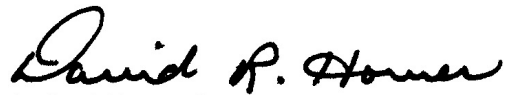
RECOMMENDED that Anaeme's complaint be **DISMISSED** in its entirety without prejudice pursuant to Fed. R. Civ. P. 16(f)(1)(C) and 37(b)(2)(A)(v) for Anaeme's failure to comply with the Court's October 26, 2011 order; and it is hereby

ORDERED that Aneme's motion for appointment of counsel (Dkt. No. 3) is **DENIED** as moot in light of the Court's recommendation that this action be dismissed; and it is further

ORDERED that the Clerk serve Anaeme with a copy of this order by regular mail and by certified mail return receipt requested.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have fourteen days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court. **FAILURE TO OBJECT TO THIS REPORT WITHIN FOURTEEN DAYS WILL PRECLUDE APPELLATE REVIEW.** Roldan v. Racette, 984 F.2d 85 (2d Cir. 1993) (citing Small v. Secretary of HHS, 892 F.2d 15 (2d Cir. 1989)); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e).

Dated: December 14, 2011
Albany, New York



David R. Homer
U.S. Magistrate Judge